



U.S. Department of Justice

United States Attorney
Southern District of New York

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One Saint Andrew's Plaza
New York, New York 10007*

October 31, 2022

BY EMAIL

The Honorable Jed S. Rakoff
United States District Judge
United States Courthouse
500 Pearl Street
New York, N.Y. 10007

Re: ***United States of America v. Jatiek Smith, 22 Cr. 352 (JSR)***

Dear Judge Rakoff:

We write in opposition to defendant Jatiek Smith's motion to reconsider this Court's earlier denial of release on bail. On September 9, 2022, the Court held that "the government has shown quite convincingly, clearly and convincingly, that there is no set of conditions that will assure against danger to the community," noting in particular Smith's "involvement in a series of violent and threatened violent acts over a period of time, orchestrated by him." Tr. 19. There are no new facts to justify the Court revisiting that decision.

Many of the defendants in this case pose a danger to the community, but the danger posed by Jatiek Smith surpasses each of them. He was the leader of this violent extortion crew, and for at least two years he used violence and threats to terrorize the fire restoration industry. He was a danger on the streets, where he was personally involved in violent attacks—but he was also a danger sitting in his own house, where he met with victims, sent threats, and ordered his underlings over the phone to carry out violence on his behalf. Even after his arrest, Smith has used his family members to contact some of the very victims who are expected to testify against him at trial. These victims are terrified, and with good reason: for two years, Smith has threatened them with violence and threatened their children with violence. There are no conditions that can reasonably restrict Smith from continuing his pattern of criminal behavior. He should remain detained pending trial.

Smith's Racketeering and Extortion Scheme

Smith—an admitted member of the violent Bloods street gang—is the leader of an Enterprise that used violence, threats of violence, and intimidation to terrorize the fire restoration industry. At Smith's direction, members of a fire restoration company known as "First Response" committed numerous assaults against other industry participants, including against employees of competitor companies. Smith and his underlings have threatened numerous others, and these threats have been explicit. Smith has threatened to kill victims or their family members. These intimidatory tactics are backed by numerous acts of actual violence, during which members of the Enterprise have hit, kicked, or punched victims—including elderly civilians. In some instances,

the Enterprise recorded its assaults on video and then circulated those videos among participants of the industry. Smith has also solidified his control over the industry with witness tampering and obstruction of justice, threatening victims not to speak to the authorities about his violence.

This violence carried out against innocent members of the fire mitigation industry has left the industry in terror. Even a small sample of First Response's violence shows why industry members felt they had no choice but to submit. For example:

- On May 5, 2020, at approximately 6:30 a.m., a group of First Response members ran up to the owner of a rival EMS company as the owner was walking to the company's storage facility. The First Response members punched the man so hard he fell to the ground. That competitor refused to pay First Response's extortion payments and was forced out of business. The assault was captured on video. In addition, Smith's phone shows that he looked up the address of the storage facility about an hour before the assault, and Smith's phone contains an image file with a 6:31a.m. timestamp that appears to be a snapshot of the assault.
- On the morning of September 15, 2020, a public adjuster was signing a loss with a homeowner when someone from First Response walked up and punched him so hard that he suffered a brain bleed and had to stay overnight in the hospital. As the assailant walked away, he yelled, "Pay my fucking money." Phone evidence shows that a member of Smith's crew had sent Smith a picture of the victim at the scene of the assault approximately one hour before the assault occurred.
- On November 13, 2020, at approximately 12:45 p.m., a public adjuster was signing a loss when a First Response worker came up and told him that "Tiek" wanted to speak to him. On the phone, Tiek—i.e., Smith—told the public adjuster to give the loss to the EMS company that was next in the rotation. When the public adjuster refused, someone ran up and punched him in the head so hard that he fell and hit a cement pillar. The victim was still recovering from open-heart surgery at the time of the assault and he suffered physically for two-to-three months after the attack. Defendant Pereira sent Smith a video of the assault immediately afterward, and the video has spread as a warning throughout the industry. That video was recovered from Smith's phone and is part of the evidence in this case.
- In early 2021, a large group from First Response—including Smith—assaulted an employee of a rival EMS company because that company signed more losses than they were allowed under the rotation. The group from First Response circled around the employee and beat him. Witnesses at the scene saw at least one First Response member with a gun, and Smith said to people at the scene, "I got 13-year old kids out here looking to make a name for themselves, I'll give them a gun, they can kill you or your family."
- On October 18, 2021, Smith and his lieutenant, Sequan Jackson, ordered an attack on a construction worker who was working at a residence for which First Response was providing fire mitigation services. Conversations about the assault were captured on a Title III wiretap in real time. Members of First Response punched the victim, then took a

photograph of his identification card as a threat. A 911 caller reported a disturbance at the construction site and stated that it involved four men with guns.

These are only some of the instances of violence that Smith carried out in the industry. As of result of this sort of violence, the Smith imposed rules on industry participants who fear violent reprisals if they disobey. These rules transformed the fire restoration industry, such that at the time of the takedown, the Enterprise controlled who could seek or sign any job. To obtain work under the Enterprise's regime, Smith first required extortionate payments from victim EMS companies and public adjusters. In other words, EMS companies had to pay Smith in order to receive any jobs. A victim's failure to pay resulted in threats of violence, actual violence, and the inability to participate in the industry. These demands for payment have only increased over time, with Smith demanding weekly payments that have been crippling for his victims.

Smith has also engaged in obstruction of justice and witness tampering to protect itself and thwart law enforcement's efforts to hold it accountable. In approximately November 2021, Smith learned that law enforcement was investigating his activities. Smith then took active steps to impede and obstruct that investigation. Those steps have included threats of violence and retaliation against potential witnesses in a blatant attempt to deter witnesses from cooperating with law enforcement. Some victims were so scared of Smith that they moved. Even today, witnesses continue to fear Smith's reprisal, and are terrified of testifying at trial.

Smith sometimes recorded his threats, and some of these recordings have been recovered from his phone. These recordings show why Smith's victims are so scared of him. For example, in a 30-minute recording dated June 19, 2020, Smith addresses an audience of other restoration companies to tell them about the new rules in the industry. Smith's language is aggressive and he repeatedly discusses his willingness to commit violence against anyone who breaks the rules or disrespects him. For example, Smith says:

When anybody is ready to put on a vest and get a gun, they come on out and play man. Come on out and play, man, like, but Santos, don't you ever call and talk like that again, nigga. Santos. I will pick you up and slam you on your fucking head if you ever call me and talk to me like that again, B.

Later in the recording, Smith becomes even more aggressive and threatens gun violence:

Come on play. Get your fucking guns and come out and play because I ain't going to be diplomatic. I ain't gonna play with niggas. . . . If a nigga want to fight right now—if a nigga wanna fight right now or anything a nigga want to do, I'm open to do it right now. Nobody gonna in it—no nothing. I'm open to do it. I'm open to do it, but you niggas don't ever fucking play with me because if I didn't want niggas to chase [fires], I'd shoot any one of you niggas. I'd shoot any one of you niggas, but y'all screw y'all faces up.

At one point, Smith addresses an individual named "Mike" and threatens his children:

Mike, did we not get your address, Mike? **I'll kill that niggas's kid. Y'all, niggas play with me, I'll kill one of your kids. I'll kill one of your kids just to send a message, B. To send a message.** Who the fuck y'all niggas think y'all playing with? I'm not a sucker. Y'all niggas think this fire chasing business is something. I'm a gang member. I been gang banging for years. I'll kill one of you niggas to send a message. That's the messages I send, man.

Smith's threats of gun violence are particularly alarming because we know that First Response had a large supply of firearms. On the day of the arrests, six guns were recovered. Two were recovered under the bed of Sequan Jackson, Smith's right-hand man. Four more were recovered in Smith's First Response office. Smith and Jackson were both convicted felons who were prohibited from having firearms.

Smith's Arrest in Puerto Rico

On June 28, 2022, federal agents arrested Smith at a hotel in Puerto Rico. Smith's actions during the arrest provide further evidence of Smith's danger to the community and his disrespect for the law. When the agents identified themselves and told Smith that they had a federal warrant for his arrest, he refused to open the door. When Smith finally opened the door, Smith started yelling at the agents in a hostile manner and telling them that he was not going to let them arrest him. When the agents tried to place him under arrest, he swatted them away, and said that he was "not no bitch," that he "wasn't gonna let any of [the agents] arrest him," that that "you are going to have to kill me." He told one agent that "he would go down the deep end with all of us that were in the room" and that he was "going to take some of us down." Smith continued yelling and making threats, in a fighting stance, for an hour. After an hour, Smith finally appeared willing to comply—but then, when told that the agents had a warrant for his cell phones, Smith stopped complying and tried to break one of the phones. Smith then resumed his fighting stance and continued making hostile comments for another 45 minutes. After a total of one hour and forty-five minutes, the agents finally managed to put Smith under arrest.

Long History of Criminal Conduct

Smith has a long and violent criminal history, including repeated instances of threatening bodily harm in order to force victims to comply with his demands. Between 2000 and 2004, Smith was accused on five different occasions of raping five girls who were between the ages of 12 and 15. Three of the five girls reported that Smith and others forced them to have sex repeatedly over a period of weeks and two said that he video-taped them having sex with adult men. The 12-year-old girl reported that Smith followed her home from the library and forced her to have sex with him by threatening her with bodily harm if she refused. It appears that only two of these incidents resulted in convictions but Smith is a registered sex offender.

Smith also has multiple arrests and convictions for assault, harassment, menacing, and weapons charges, including a 2003 conviction for assault, a 2004 arrest for menacing, a 2009 conviction for attempted larceny, and a 2010 arrest for attempted murder and attempted gang assault which was ultimately pled down to criminal solicitation. He also has two prior drug convictions, including two in 2014.

Smith has also shown that he is not amenable to court supervision such as pretrial release. In fact, Smith was on parole, and actively reporting to a parole officer, when he was running the extortion and racketeering scheme charged in this case.

No Changed Circumstances

Nothing has changed since the Court's September bail decision that would justify reconsideration of that decision.

Smith contends that the discovery provides greater context for his crimes and shows that other members of the industry were also committing violence, and that his nominal boss at First Response was aware of the violence. Even if these allegations were true—and we submit that the discovery in fact shows that Smith's violence was of a different degree than anything that might have preceded it—they are not a legal defense to Smith's own violence. Nor do Smith's arguments about other bad actors in the community diminish Smith's own danger to the community.

Nor does the Court's decision to set bail for Sequan Jackson constitute a changed circumstance. The Government of course opposed bail for Jackson as well, but we also view Smith's danger to the community as far greater than what Jackson posed. As Smith's top lieutenant, Jackson was often the one following Smith's orders or passing his orders along to others. But it was Smith who was giving those orders—and it is Smith who will likely continue giving those orders if he is released. Smith was also the member of the conspiracy most involved in threatening witnesses and obstructing justice. Smith appears to have increased those efforts at witness intimidation since his arrest by sending messages to victims through his wife. Smith has also used other relatives to demand that victims continue to pay extortion fees. If Smith were released, he would have a much freer hand to disseminate those threats. Witnesses are already terrified to testify against Smith for fear of retaliation, and we expect that if Smith is released, he will find additional ways to pressure these witnesses against taking the stand.

CONCLUSION

For the foregoing reasons, Smith's motion for reconsideration should be denied.

Respectfully submitted,

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